

LANGUAGE PRESENTED AT THE APRIL 2005 MEETING

VERSION A: Ordinary Course of Business Rule with Presumption

Add 2 Cal. Code Regs. section 18530.7 to read:

18530.7 Extensions of Credit

(a) An extension of credit which consists of a provision of goods or services pursuant to an agreement between the provider of the goods or services and a candidate or committee is a contribution subject to the limits of Government Code section 85307(a) where payment is not due until a later date and where the transaction was not in the ordinary course of the provider's business. It is presumed that a transaction is within the ordinary course of the provider's business if all the following criteria are met:

(1) The credit arrangement for the provision of goods or services is recorded in a written instrument **Decision Point 3:** [signed by the candidate or committee or an agent for the candidate or committee];

(2) It is a primary business of the provider of goods or services to provide similar goods or services on credit;

(3) The provider of goods or services enters into the credit arrangement with the intent that the candidate or committee pay in accordance with the terms of the agreement between the provider and the candidate or committee and, if the candidate or committee is unable to fulfill the terms of the agreement, the provider entered into the agreement without any actual knowledge that the candidate or committee would not be able to pay in accordance with the agreed-upon terms; and

1 (4) The provider of goods or services makes reasonable efforts to collect the full amount
2 of the payment owed within four months of the date that the payment for the goods or services
3 was due under the terms of the agreement **Decision Point 4:** [including three successive demand
4 letters warning of possible legal action after the time for payment has expired].

5 NOTE: Authority Cited: Section 83112, Government Code.

6 Reference: Section 85307, Government Code.

APR 2005

1 **VERSION B: Bright Line Rule and Safe Harbor**

2 **Add 2 Cal. Code Regs. section 18530.7 to read:**

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4 **18530.7 Extensions of Credit**

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6 (a) An extension of credit which consists of a provision of goods or services pursuant to
7 an agreement between the provider of the goods or services and a candidate or committee is a
8 contribution subject to the limits of Government Code section 85307(a) where the period for
9 payment by the candidate or committee extends for more than 30 days. An extension of credit
10 begins on the earlier of the following dates:

11 (1) 15 days after the date specified on the invoice for payment; or

12 (2) **Decision Point 5** [45/60/90] days from the date the goods or services are delivered.

13 (b) If all of the following criteria are satisfied by a provider of goods or services, it shall:

14 (i) be a complete defense for the provider of goods or services in any enforcement action
15 initiated by the Commission, (ii) relieve the provider of goods or services of any reporting
16 requirements of this title, and (iii) be evidence of good faith conduct in any subsequent civil,
17 criminal or administrative proceeding:

18 (1) The credit arrangement was recorded in a written instrument **Decision Point 3:**
19 [signed by the candidate or committee or an agent for the candidate or committee];

20 (2) It is a primary business of the provider of goods or services to provide similar goods
21 or services on credit;

22 (3) The provider provided the goods or services in the ordinary course of business and on
23 the same terms and conditions offered to customers generally;

24 (4) The provider of goods or services entered into the agreement with the intent that the
25 candidate or committee would be required to pay in accordance with terms of the agreement and

1 did not have actual knowledge that the candidate or committee would not be able to pay in
2 accordance with those terms; and

3 (5) The provider of goods or services made reasonable efforts to collect the full amount
4 of the payment owed within four months of the earlier date of subdivision (a)(1) or (2) **Decision**
5 **Point 4:** [including three successive demand letters warning of possible legal action after the
6 time for payment has expired].

7 NOTE: Authority Cited: Section 83112, Government Code.

8 Reference: Section 85307, Government Code.

APR 2005